

IC 32-34

ARTICLE 34. LOST OR UNCLAIMED PERSONAL PROPERTY

IC 32-34-1

Chapter 1. Unclaimed Property Act

IC 32-34-1-1

Nonapplicability of foreign country property arising out of a foreign transaction; excepted property

Sec. 1. (a) This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

(b) This chapter does not apply to:

- (1) stocks;
- (2) dividends;
- (3) capital credits;
- (4) patronage refunds;
- (5) utility deposits;
- (6) membership fees;
- (7) account balances; or
- (8) book equities;

for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed under IC 8-1-17, or an agricultural cooperative association formed under IC 15-7-1.

(c) This chapter does not apply to unclaimed overpayments of utility bills that become the property of a municipality under IC 36-9-23-28.5.

(d) This chapter does not apply to deposits required by a municipally owned utility (as defined in IC 8-1-2-1).

(e) This chapter does not apply to a business to business credit memorandum or a credit balance resulting from a business to business credit memorandum.

(f) This chapter does not apply to gift certificates or gift cards.
As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.1.

IC 32-34-1-2

Citation of law as "unclaimed property act"

Sec. 2. This chapter may be cited as the "unclaimed property act".
As added by P.L.2-2002, SEC.19.

IC 32-34-1-3

"Administrator" defined

Sec. 3. As used in this chapter, "administrator" means the administrator of the unclaimed property law of another state.
As added by P.L.2-2002, SEC.19.

IC 32-34-1-4

"Apparent owner" defined

Sec. 4. As used in this chapter, "apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-5

"Business association" defined

Sec. 5. As used in this chapter, "business association" means the following:

- (1) A corporation.
- (2) A limited liability company.
- (3) A joint stock company.
- (4) An investment company.
- (5) A partnership.
- (6) A business trust.
- (7) A trust company.
- (8) A savings association.
- (9) A savings bank.
- (10) An industrial bank.
- (11) A land bank.
- (12) A safe deposit company.
- (13) A safekeeping depository.
- (14) A bank.
- (15) A banking organization.
- (16) A financial organization.
- (17) An insurance company.
- (18) A mutual fund.
- (19) A credit union.
- (20) A utility.
- (21) A for profit or nonprofit business association consisting of two (2) or more individuals.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-6

"Domicile" defined

Sec. 6. As used in this chapter, "domicile" means the following:

- (1) The state of incorporation of a corporation.
- (2) The state of the principal place of business of a holder other than a corporation.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-7

"Financial institution" defined

Sec. 7. As used in this chapter, "financial institution" means a depository financial institution that is organized or reorganized under Indiana law, the law of another state, or United States law. The term includes any of the following:

- (1) A commercial bank.
- (2) A trust company.

- (3) A savings bank.
- (4) A savings association.
- (5) A credit union.
- (6) An industrial loan and investment company.
- (7) Any other entity that has powers similar to the powers of an entity described in subdivisions (1) through (6).

As added by P.L.2-2002, SEC.19.

IC 32-34-1-8

"Holder" defined

Sec. 8. As used in this chapter, "holder" means a person obligated to deliver or pay to the owner property that is subject to this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-9

"Insurance company" defined

Sec. 9. As used in this chapter, "insurance company" means an association, a corporation, or a fraternal or mutual benefit organization, whether or not for profit, that is engaged in the business of providing insurance, including the following:

- (1) Accident insurance.
- (2) Burial insurance.
- (3) Casualty insurance.
- (4) Credit life insurance.
- (5) Contract performance insurance.
- (6) Dental insurance.
- (7) Fidelity insurance.
- (8) Fire insurance.
- (9) Health insurance.
- (10) Hospitalization insurance.
- (11) Illness insurance.
- (12) Life insurance (including endowments and annuities).
- (13) Malpractice insurance.
- (14) Marine insurance.
- (15) Mortgage insurance.
- (16) Surety insurance.
- (17) Wage protection insurance.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-10

"Last known address" defined

Sec. 10. (a) As used in sections 26, 32, and 43 of this chapter, "last known address" means a description of the location of the apparent owner's residence or business sufficient for the purpose of the delivery of mail or the receipt of a communication by other means known to the holder.

(b) As used in sections 21 and 37 of this chapter, "last known address" means a description indicating that the apparent owner was located within Indiana, regardless of whether the description is sufficient to direct the delivery of mail.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-11

"Mineral" defined

Sec. 11. As used in this chapter, "mineral" means any of the following:

- (1) Gas.
- (2) Oil.
- (3) Coal.
- (4) Other gaseous, liquid, and solid hydrocarbons.
- (5) Shale.
- (6) Oil shale.
- (7) Cement material.
- (8) Sand and gravel.
- (9) Road material.
- (10) Building stone.
- (11) Chemical substance.
- (12) Gemstone.
- (13) Metallic, fissionable, and nonfissionable ores.
- (14) Colloidal and other clay.
- (15) Steam and other geothermal resource.
- (16) Any other substance defined as a mineral under Indiana law.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-12

"Mineral proceeds" defined

Sec. 12. As used in this chapter, "mineral proceeds" means proceeds currently payable and unclaimed and, upon the abandonment of those proceeds, all proceeds that would have become payable, including the following:

- (1) Obligations to pay resulting from the extraction, production, or sale of minerals, including the following:
 - (A) Net revenue interests.
 - (B) Royalties.
 - (C) Overriding royalties.
 - (D) Extraction and production payments.
 - (E) Joint operating agreements.
 - (F) Pooling arrangements.
- (2) Obligations for the acquisition and retention of a mineral lease, including the following:
 - (A) Bonuses.
 - (B) Delay rentals.
 - (C) Shut-in royalties.
 - (D) Minimum royalties.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-13

"Money order" defined

Sec. 13. (a) As used in this chapter, "money order" includes an

express money order and a personal money order on which the remitter is the purchaser.

(b) The term does not include the following:

- (1) A bank money order on which the remitter is the purchaser.
- (2) A bank money order or any other instrument sold by a banking or financial institution if the seller has obtained the name and address of the payee.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-14

"Owner" defined

Sec. 14. (a) As used in this chapter, "owner" means:

- (1) a person who has a legal or an equitable interest in property subject to this chapter; or
- (2) the person's legal representative.

(b) The term includes the following:

- (1) A depositor in the case of property that is a deposit.
- (2) A beneficiary in the case of property that is a trust other than a deposit in trust.
- (3) A creditor, claimant, or payee in the case of other property.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-15

"Person" defined

Sec. 15. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, an association, a joint venture, a government, a governmental subdivision, agency, or instrumentality, a public corporation, a joint or common owner, or any other legal or commercial entity.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-16

"Political subdivision" defined

Sec. 16. (a) As used in section 47 of this chapter, "political subdivision" includes any Indiana municipality, county, civil township, civil incorporated city or town, public school corporation, university or college supported in part by state funds, or any other territorial subdivision of the state recognized or designated in any law, including the following:

- (1) Judicial circuits.
- (2) A public utility entity not privately owned.
- (3) A special taxing district or entity.
- (4) A public improvement district authority or entity authorized to levy taxes or assessments.

(b) The term does not include any retirement system supported entirely or in part by the state.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-17

"Property" defined

Sec. 17. (a) This section does not apply to section 24 of this chapter.

(b) As used in this chapter, "property" means an interest in intangible personal property, except an unliquidated claim, and all income or increment derived from the interest, including an interest that is referred to as or evidenced by:

- (1) money, a check, a draft, a deposit, an interest, or a dividend;
- (2) a credit balance, a customer overpayment, a gift certificate, a security deposit, a refund, a credit memorandum, an unpaid wage, an unused airline ticket, mineral proceeds, or an unidentified remittance;
- (3) stock and other ownership interest in a business association;
- (4) a bond, debenture, note, or other evidence of indebtedness;
- (5) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
- (6) an amount due and payable under the terms of an insurance policy; and
- (7) an amount distributable from a trust or custodial fund established under a plan to provide:
 - (A) health;
 - (B) welfare;
 - (C) pension;
 - (D) vacation;
 - (E) severance;
 - (F) retirement;
 - (G) death;
 - (H) stock purchase;
 - (I) profit sharing;
 - (J) employee savings;
 - (K) supplemental unemployment insurance; or
 - (L) similar;benefits.

(c) The term does not include transactions between business entities and:

- (1) a motor carrier (as defined in IC 8-2.1-17-10); or
- (2) a carrier (as defined in 49 U.S.C. 13102(3)).

As added by P.L.2-2002, SEC.19.

IC 32-34-1-18

"State" defined

Sec. 18. As used in this chapter, "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-19

"Utility" defined

Sec. 19. As used in this chapter, "utility" means a person that owns or operates for public use any plant, equipment, property,

franchise, or license for the transmission of communications or for the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-20

Owner indication of interest in property; presumption of abandonment

Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and

(2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

(i) the cashing of a dividend check or other instrument of payment received; or

(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

(i) a statement;

(ii) a report of interest paid or credited; or

(iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash

surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

- (1) For traveler's checks, fifteen (15) years after issuance.
- (2) For money orders, seven (7) years after issuance.
- (3) For consumer credits, three (3) years after the credit becomes payable.
- (4) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:
 - (A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or
 - (B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.
- (5) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.
- (6) For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3.
- (7) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.
- (8) For compensation for personal services, one (1) year after the compensation becomes payable.
- (9) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.
- (10) For stock, dividends, profits, distributions, interest, redemption, payments on principal, or any other sum held or owed by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holders of the business association, or other interest in a business association, three (3) years after the earlier of:
 - (A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or
 - (B) the date of the second mailing of a statement of account or other notification or communication that was:
 - (i) returned as undeliverable; or
 - (ii) made after the holder discontinued mailings to the apparent owner.
- (11) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:
 - (A) the actual date of the distribution or attempted

distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

(12) For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, five (5) years after maturity or five (5) years after the date of the last indication by the owner of interest in the property, whichever is earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

(13) For property payable or distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company, five (5) years after the earlier of:

(A) the date of last contact with the policyholder; or

(B) the date the property became payable or distributable.

(14) For all other property, the earlier of five (5) years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.2; P.L.224-2003, SEC.113; P.L.97-2004, SEC.109; P.L.85-2005, SEC.1.

IC 32-34-1-21

Property subject to custody of state as unclaimed property

Sec. 21. Except as provided in another state statute, property located in Indiana or another state is subject to the custody of this state as unclaimed property if the property is presumed abandoned and if:

(1) the last known address of the apparent owner, as shown on the records of the holder, is in Indiana;

(2) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in Indiana;

(3) the records of the holder do not reflect the last known address of the apparent owner and it is established that:

(A) the last known address of the person entitled to the property is in Indiana; or

(B) the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the

- last known address of the apparent owner or other person entitled to the property;
- (4) the last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state;
- (5) the last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is a domiciliary or a government or governmental subdivision or agency of this state;
- (6) the transaction out of which the property arose occurred in Indiana, the holder is a domiciliary of a state that does not provide for the escheat or custodial taking of the property, and the last known address of the apparent owner or other person entitled to the property is:
- (A) unknown; or
- (B) in a state that does not provide for the escheat or custodial taking of the property; or
- (7) the property is a traveler's check or money order:
- (A) purchased in Indiana; or
- (B) for which the issuer of the traveler's check or money order has its principal place of business in Indiana and the issuer's records:
- (i) do not show the state in which the instrument was purchased; or
- (ii) show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-22

Dormancy charges

Sec. 22. (a) A holder may not deduct a charge from property that is presumed abandoned if the charge is imposed because the owner failed to claim the property within a specified time unless:

- (1) there is a valid and enforceable written contract between the holder and the owner that allows the holder to impose the charge; and
- (2) the holder regularly imposes the charge, and the charge is not regularly reversed or otherwise canceled.

(b) If a holder described in this section is a financial institution, the dormancy charges of the department of financial institutions apply.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-23

Prima facie evidence of an obligation; attorney general's burden of proof; affirmative defenses

Sec. 23. (a) A record that a check, draft, or similar instrument was

issued is prima facie evidence of an obligation.

(b) If the attorney general claims property from a holder who is also the issuer, the attorney general's burden of proof as to the existence and amount of the property and the abandonment of the property is satisfied by showing the following:

- (1) That the instrument was issued.
- (2) That the required period of time of abandonment has passed.
- (c) For purposes of this section, the defenses of:
 - (1) payment;
 - (2) satisfaction;
 - (3) discharge; and
 - (4) want of consideration;

are affirmative defenses that must be established by the holder.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-24

Property in safe deposit box or safekeeping depository

Sec. 24. If:

- (1) tangible or intangible property that is held in a safe deposit box or any other safekeeping depository in Indiana in the ordinary course of the holder's business; or
 - (2) the proceeds resulting from the sale of the property described in subdivision (1) as authorized by other law;
- remain unclaimed by the owner for more than five (5) years after expiration of the lease or rental period on the box or other depository, the property or proceeds are presumed abandoned.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-25

Voluntary dissolution of business association, banking organization, or financial institution

Sec. 25. Any:

- (1) business association;
- (2) banking organization; or
- (3) financial institution;

that is organized under Indiana law or created in Indiana and that undergoes voluntary dissolution shall file a notice of the voluntary dissolution with the attorney general not later than ten (10) days after the adoption by the members or shareholders of the resolution to dissolve.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-26

Report of property presumed abandoned

Sec. 26. (a) A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property. Items of value of less than fifty dollars (\$50) may be reported by the holder in the aggregate.

- (b) For each item with a value of at least fifty dollars (\$50), the

report required under subsection (a) must be verified and must include the following:

- (1) The apparent owner's:
 - (A) name, if known;
 - (B) last known address, if any; and
 - (C) Social Security number or taxpayer identification number, if readily ascertainable.
- (2) In the case of the contents of a safe deposit box or other safekeeping depository of tangible property:
 - (A) a description of the property;
 - (B) the place where the property is held and may be inspected by the attorney general; and
 - (C) any amount that is owed to the holder.
- (3) The date:
 - (A) the property became payable, demandable, or returnable; and
 - (B) of the last transaction with the apparent owner with respect to the property.
- (4) Other information that the attorney general requires by rules adopted under IC 4-22-2 as necessary for the administration of this chapter.

(c) If:

- (1) a holder of property that is presumed abandoned and that is subject to custody as unclaimed property is a successor to another person who previously held the property for the apparent owner; or
 - (2) the holder has changed its name while holding the property;
- the holder shall file with the report required by subsection (a) the former names of the holder, if any, and the known name and address of any previous holder of the property.

(d) The attorney general shall establish filing dates for the report required by subsection (a).

(e) The holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report required by subsection (a), send written notice to the apparent owner of the property stating that the holder is in possession of property subject to this chapter if:

- (1) the holder has a record of an address for the apparent owner that the holder's records do not show as inaccurate;
- (2) the claim of the apparent owner is not barred by the statute of limitations; and
- (3) the value of the property is at least fifty dollars (\$50).

(f) Before the date of filing the report required by subsection (a), the holder may request the attorney general to extend the time for filing the report. The attorney general may grant the extension upon a showing of good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due. The making of an interim payment under this subsection suspends the accrual of interest on the amount.

(g) The holder shall file with the report an affidavit stating that the holder has complied with this section.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.3.

IC 32-34-1-27

Payment or delivery of property to attorney general; automatically renewable deposits; liability

Sec. 27. (a) Except as provided in subsections (b) and (c), on the date a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property that is described in the report as unclaimed.

(b) In the case of an automatically renewable deposit, if at the time of delivery under subsection (a) a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the earliest date upon which a penalty or forfeiture would not result.

(c) Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the attorney general until one hundred twenty (120) days after the date the report describing the property under section 26 of this chapter is filed.

(d) If the property reported to the attorney general is a security or security entitlement under IC 26-1-8.1, the attorney general may make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with IC 26-1-8.1.

(e) If the holder of property reported to the attorney general is the issuer of a certificated security, the attorney general has the right to obtain a replacement certificate under IC 26-1-8.1-405, and an indemnity bond is not required.

(f) An issuer, the holder, and any transfer agent or other person acting under the instructions of and on behalf of the issuer in accordance with this section are not liable to the apparent owner and must be indemnified against the claims of any person in accordance with section 29 of this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-28

Publication of notice requirements; exceptions

Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder:

(1) does not report an address for the apparent owner; or

(2) reports an address outside Indiana;
the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

(1) Any item with a value of less than one hundred dollars (\$100).

(2) Information concerning a traveler's check, money order, or any similar instrument.

(3) Property reported as a result of a demutualization of an insurance company.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.4; P.L.81-2004, SEC.27.

IC 32-34-1-28.5

Unclaimed property resulting from demutualization of insurance company; notice

Sec. 28.5. (a) The attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property as a result of a demutualization of an insurance company has been paid or delivered to the attorney general.

(b) The notice required by subsection (a) must be published at least once in a newspaper of general circulation published in the county of Indiana of the last known address of any person named in the notice.

(c) If the holder does not report an address for the apparent owner, the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a

form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property. The advertised notice is not subject to the rate prescribed in IC 5-3-1-1. The rate may not be higher than the rate set in IC 5-3-1-1.

(e) The advertised notice must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(f) The attorney general is not required to include any item with a value of less than one hundred dollars (\$100) in the notice.

As added by P.L.81-2004, SEC.28.

IC 32-34-1-29

Good faith payment or delivery; custody of state; immunity of holder; reimbursement by holder; reclamation for owner; reimbursement or payment of safe deposit box or safekeeping depository charges

Sec. 29. (a) For purposes of this section, payment or delivery is made in good faith if:

(1) payment or delivery was made in a reasonable attempt to comply with this chapter;

(2) the holder was not a fiduciary in breach of trust with respect to the property and had a reasonable basis for believing, based on the facts known at the time, that the property was abandoned; and

(3) there is not a showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(b) Upon the payment or delivery of property to the attorney general, the state assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the attorney general in good faith is relieved of all liability with respect to the property after the payment and delivery.

(c) A holder who has paid money to the attorney general under this chapter may later make payment to a person who, in the opinion of the holder, appears to be entitled to the payment. The attorney general shall promptly reimburse the holder for the payment without imposing a fee or other charge if the holder files proof of payment and proof that the payee was entitled to the payment. If any

reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that:

- (1) the instrument was duly presented; and
- (2) the payment was made to a person who appeared to be entitled to the payment.

The holder must be reimbursed for the payment made even if the payment was made to a person whose claim was barred under section 41 of this chapter.

(d) A holder who has delivered property, including a certificate of any interest in a business association, but not including money, to the attorney general under this chapter may reclaim the property without paying a fee or other charge if the property is still in the possession of the attorney general, upon filing proof that the apparent owner has claimed the property from the holder.

(e) The attorney general may accept the holder's affidavit as sufficient proof of the holder's right to recover the money and the property under this section.

(f) If the holder pays or delivers property to the attorney general in good faith and later:

- (1) another person claims the property from the holder; or
- (2) another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property;

the attorney general, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(g) Property removed from a safe deposit box or other safekeeping depository is received by the attorney general subject to the holder's right to be reimbursed for the cost of the opening and reasonable expenses incurred in determining the current addresses of any owners for whom the last previous address contained in the holder's records appears to be inaccurate. The property is subject to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The attorney general shall reimburse or pay the holder out of the proceeds remaining after deducting the attorney general's cost of selling the property.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-30

Owner entitled to dividends, interest, or other increments realized; exception

Sec. 30. (a) If property, other than money, is paid or delivered to the attorney general under this chapter, the owner is entitled to receive from the attorney general any dividends, interest, or other increments realized or accruing on the property at or before delivery to the attorney general.

(b) The owner is not entitled to receive dividends, interest, or other increments accruing after delivery of the property to the attorney general under this chapter unless the property was paid or delivered under section 39(b) of this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-31

Public sale of abandoned property by attorney general; sale of securities; transfer of certain property

Sec. 31. (a) Except as provided in subsections (b), (c), and (f), the attorney general, not later than three (3) years after the receipt of abandoned property, shall sell the property to the highest bidder at a commercially reasonable public sale that, in the judgment of the attorney general, affords the most favorable market for the property. The attorney general may decline the highest bid and reoffer the property for sale if, in the judgment of the attorney general, the bid is insufficient. If, in the judgment of the attorney general, the probable cost of the sale exceeds the value of the property, the attorney general is not required to offer the property for sale. A sale held under this section must be preceded, at least three (3) weeks before the sale, by one (1) publication of notice in a newspaper of general circulation published in the county in which the property is to be sold.

(b) If the property is of a type that is customarily sold on a recognized market or that is subject to widely distributed standard price quotations, and if, in the opinion of the attorney general, the probable cost of a public sale to the highest bidder would:

- (1) exceed the value of the property; or
- (2) result in a net loss;

the attorney general may sell the property privately, without notice by publication, at or above the prevailing price for the property at the time of the sale.

(c) Securities shall be sold as soon as reasonably possible following receipt. If a valid claim is made for any securities in the possession of the attorney general, the attorney general may:

- (1) transfer the securities to the claimant; or
- (2) pay the claimant the value of the securities as of the date the securities were delivered to the attorney general.

Notice of the sale of securities is not required. Securities listed on an established stock exchange must be sold at prices prevailing at the time of the sale on the stock exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the attorney general considers reasonable.

(d) A purchaser of property at a sale conducted by the attorney general under this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The attorney general shall execute all documents necessary to complete the transfer of ownership.

(e) A person does not have a claim against the attorney general for any appreciation of property after the property is delivered to the attorney general, except in a case of intentional misconduct or malfeasance by the attorney general.

(f) If property is forwarded to the attorney general and the report concerning the property does not have all of the information required

under section 26(b)(1) of this chapter or the total value of the property is ten dollars (\$10) or less, the attorney general may immediately:

- (1) sell the property and transmit the proceeds; or
- (2) transfer the property;

to the state general fund.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.5; P.L.97-2004, SEC.110.

IC 32-34-1-32

Property custody fund; notice requirements; transfer of principal; claim by apparent owner

Sec. 32. (a) The property custody fund is established. Except as provided in section 31(f) of this chapter, any money received by the attorney general under section 39(b) of this chapter shall be delivered to the treasurer of state for deposit in the property custody fund. Subject to any claim of the owner allowed by the attorney general under this chapter, the money shall be held in the property custody fund for safekeeping until the date the money is presumed abandoned under sections 20 and 24 of this chapter and transferred to the abandoned property fund established by section 33 of this chapter in accordance with this section.

(b) The attorney general shall specify in the notice required by section 28 of this chapter the latest date the apparent owner may claim the property from the property custody fund. Notice must also be mailed to each person having a last known address listed in the report to the attorney general filed under section 26 of this chapter.

(c) Except as provided in subsection (d), not later than twenty-five (25) days after the date specified in the notice published under subsection (b), the treasurer of state, upon order of the attorney general, shall transfer the principal of the property to which the notice relates from property custody fund to the abandoned property fund.

(d) The attorney general may allow a claim of the apparent owner before the principal of the property in the property custody fund is transferred to the abandoned property fund under subsection (c). After the elapse of the twenty-five (25) days referred to in subsection (c), the funds are considered abandoned property instead of property received under section 39(b) of this chapter for purposes of this chapter.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.6.

IC 32-34-1-33

Abandoned property fund; transfer of certain funds

Sec. 33. (a) The abandoned property fund is established. Except as provided in subsection (b) and sections 31 and 32 of this chapter, money received by the attorney general under this chapter, including the proceeds from the sale of abandoned property under section 31 of this chapter, shall be transferred by the attorney general to the treasurer of state for deposit in the abandoned property fund.

(b) Money received under this chapter that was originally drawn from a fund under the control of a local unit of government shall be transferred to the fund from which the money was originally drawn. *As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.7.*

IC 32-34-1-34

Payment by treasurer; transfer if fund exceeds \$500,000; payment of claims over \$500,000; deposit recording requirements; earnings credited; interest transfers

Sec. 34. (a) Except as provided in section 42(d) of this chapter, the treasurer of state shall, on order of the attorney general, pay the necessary costs of the following:

- (1) Selling abandoned property.
- (2) Mailing notices.
- (3) Making publications required by this chapter.
- (4) Paying other operating expenses and administrative expenses, including:
 - (A) salaries and wages reasonably incurred by the attorney general in the administration and enforcement of this chapter; and
 - (B) costs incurred in examining records of the holders of property and in collecting the property from the holders.

(b) If the balance of the principal of the abandoned property fund established by section 33 of this chapter exceeds five hundred thousand dollars (\$500,000), the treasurer of state may, and at least once each fiscal year shall, transfer to the state general fund the balance of the principal of the abandoned property fund that exceeds five hundred thousand dollars (\$500,000).

(c) If a claim is allowed or a refund is ordered under this chapter that is more than five hundred thousand dollars (\$500,000), the treasurer of state shall transfer from the state general fund sufficient money to make prompt payment of the claim. There is annually appropriated to the treasurer of state from the state general fund the amount of money sufficient to implement this subsection.

(d) Before making a deposit into the abandoned property fund, the attorney general shall record the following:

- (1) The name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property.
- (2) The name and last known address of each insured person or annuitant.
- (3) The number, the name of the corporation, and the amount due concerning any policy or contract listed in the report of a life insurance company.

(e) Except as provided in subsection (f), earnings on the property custody fund and the abandoned property fund shall be credited to each fund.

(f) On July 1 of each year, the interest balance in the property custody fund established by section 32 of this chapter and the interest balance in the abandoned property fund shall be transferred to the

state general fund.

As added by P.L.2-2002, SEC.19. Amended by P.L.246-2005, SEC.217.

IC 32-34-1-35

Custody of property custody fund and abandoned property fund; fund investment; appropriation

Sec. 35. (a) The treasurer of state shall keep safely the money in the property custody fund established by section 32 of this chapter and the abandoned property fund established by section 33 of this chapter. The money may not be transferred or assigned except as specifically authorized and directed in this chapter. At any time, upon certification of the attorney general and the treasurer of state that there is cash on deposit in either fund in excess of the cash requirements of the fund anticipated for the next succeeding semiannual fiscal period, the state board of finance may authorize the treasurer of state to invest and reinvest the money as authorized for other funds of the state by IC 5-13, including the purchase of certificates of deposit. However, an investment may not be made in a certificate of deposit with a maturity or redemption date that is more than six (6) months after the date of purchase, subscription, or deposit. Any interest or other accretions derived from investments made under this subsection become a part of the fund from which the money was invested.

(b) A sufficient amount of money from the abandoned property fund is appropriated to the treasurer of state to pay claims, costs, and expenses ordered paid from the abandoned property fund under this chapter.

(c) A sufficient amount of money from the property custody fund is annually appropriated to the treasurer of state to pay claims ordered paid from the property custody fund under this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-36

Filing claim with attorney general; requirements; delivery of property to identified owner

Sec. 36. (a) Except as provided in subsection (f), a person, except another state, claiming an interest in property paid or delivered to the attorney general may file a claim on a form prescribed by the attorney general and verified by the claimant. To be considered by the attorney general, the claim must meet the requirements established by the attorney general.

(b) Not later than ninety (90) days after a claim that meets the requirements established by the attorney general is filed under subsection (a), the attorney general shall:

(1) consider the claim; and

(2) give written notice to the claimant that the claim is granted or that the claim is denied in whole or in part.

(c) Not later than thirty (30) days after a claim is granted, the attorney general shall pay over or deliver to the claimant the

property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter.

(d) A holder who pays the owner for property that has been delivered to the state and that, if claimed from the attorney general by the owner, would be subject to an increment under section 30 of this chapter shall recover the amount of the increment from the attorney general.

(e) A person may file a claim under subsection (a) at any time within twenty-five (25) years after the date on which the property was first presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property.

(f) The attorney general may pay over or deliver to the owner the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter, without the owner filing a claim under subsection (a) if the attorney general identifies the owner.

As added by P.L.2-2002, SEC.19. Amended by P.L.107-2003, SEC.8.

IC 32-34-1-36.5

Filing disclaimer; transfer of disclaimed property

Sec. 36.5. (a) An owner of property that is delivered to the attorney general may disclaim the property by filing a disclaimer of property with the attorney general in the form and manner required by the attorney general.

(b) If the property is disclaimed under subsection (a), the attorney general may immediately:

- (1) sell the property and transmit the proceeds; or
- (2) transfer the property;

to the state general fund.

As added by P.L.107-2003, SEC.9.

IC 32-34-1-37

Recovery of property by another state; procedure

Sec. 37. (a) At any time within twenty-five (25) years after the date on which the property was presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, another state may recover the property if any of the following subdivisions apply:

- (1) All of the following apply:

(A) The property was delivered to the custody of this state because the records of the holder did not reflect the last known address of the apparent owner when the property was

presumed abandoned under this chapter.

(B) The other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state.

(C) Under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.

(2) The property was paid or delivered to the custody of this state because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted, the property has escheated to or become subject to a claim of abandonment by that state.

(3) All of the following apply:

(A) The records of the holder did not accurately identify the owner of the property.

(B) The last known address of the owner is in the other state.

(C) Under the laws of the other state, the property escheated to or was subject to a claim of abandonment by that state.

(4) The property was subject to custody by this state under section 21(7) of this chapter and, under the laws of the state of domicile of the holder, the property has escheated to or become subject to a claim of abandonment by that state.

(5) All of the following apply:

(A) The property is a sum payable on a traveler's check, money order, or similar instrument that was delivered into the custody of this state under section 21(7) of this chapter.

(B) The instrument was purchased in the other state.

(C) Under the laws of the other state, the property escheated to or is subject to a claim of abandonment by that state.

(b) A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the attorney general. The attorney general shall consider the claim and give written notice not more than ninety (90) days after the presentation of the claim to the other state that the claim is granted or denied in whole or in part. The attorney general shall allow the claim upon a determination that the other state is entitled to the abandoned property under subsection (a).

(c) The attorney general shall require another state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-38

Court action by person

Sec. 38. A person who, under this chapter:

(1) has been aggrieved by a decision of the attorney general; or

(2) has filed a claim that has not been acted upon within ninety (90) days after its filing;

may maintain an original action to establish the claim in a court with jurisdiction and name the attorney general as a defendant.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-39

Authority to decline receipt of property; delivery of property before presumption of abandonment

Sec. 39. (a) The attorney general may decline to receive property reported under this chapter if the attorney general considers the property to have a value less than the expenses of the notice and the sale of the property.

(b) A holder, with the written consent of the attorney general and upon conditions and terms prescribed by the attorney general, may report and deliver property before the property is presumed abandoned. Property delivered to the attorney general under this subsection must be held in the property custody fund established under section 32 of this chapter, and the property is not presumed abandoned until the property otherwise would be presumed abandoned under this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-40

Destruction or disposition of property with no substantial commercial value; immunity

Sec. 40. (a) If the attorney general determines after an investigation that property delivered under this chapter does not have any substantial commercial value, the attorney general may destroy or otherwise dispose of the property at any time.

(b) An action or a proceeding may not be maintained against the state, an officer of the state, or the holder for or on account of any acts taken by the attorney general under this section, except for acts constituting intentional misconduct or malfeasance.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-41

Presumption of abandonment; expiration of period to commence claim or recovery action; effect on reporting and delivery requirements; limitation of actions

Sec. 41. (a) The expiration of any time specified by contract, statute, or court order, during which:

- (1) a claim for money or property can be made; or
- (2) an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property;

does not preclude the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the attorney general as required by this chapter.

(b) An action or a proceeding may not be commenced by the attorney general to enforce the provisions of this chapter more than ten (10) years after the holder:

- (1) specifically reported the property to the attorney general; or
- (2) gave express notice to the attorney general of a dispute

regarding the property.

In the absence of a report, the period of limitations is tolled. The period of limitations is also tolled by the filing of a false or fraudulent report.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-42

Request for verified report; examination of records to determine compliance; assessment of cost of examination

Sec. 42. (a) The attorney general may require a person who has not filed a report, or a person who the attorney general believes has filed an inaccurate, an incomplete, or a false report, to file a verified report in a form prescribed by the attorney general stating the following:

- (1) Whether the person is holding any unclaimed property reportable or deliverable under this chapter.
- (2) Describing any property not previously reported or as to which the attorney general has made inquiry.
- (3) Specifically identifying and stating the amounts of property that may be in issue.

(b) The attorney general, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with this chapter. The attorney general may conduct the examination even if the person believes the person is not in possession of any property reportable or deliverable under this chapter. When making an examination under this chapter, the attorney general may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners.

(c) The attorney general may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the attorney general has given the notice required by subsection (b) to both the business association and the agent at least ninety (90) days before the examination.

(d) If an examination of the records of a person under subsection (b) results in the disclosure of property reportable and deliverable under this chapter, the attorney general may assess the cost of the examination against the holder at the rate of two hundred dollars (\$200) a day for each examiner. The cost of an examination of the records of an agent of a business association under subsection (c) may be imposed only against the business association.

(e) If a holder fails to maintain the records required under section 43 of this chapter and the available records of the holder are insufficient to permit the preparation of a report, the attorney general may require the holder to report and pay an amount that may reasonably be estimated from any available records of the holder or on the basis of any other reasonable estimating technique that the attorney general may select.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-43**Records retention; maintenance of records by business associations that sell traveler's checks**

Sec. 43. (a) Except as provided in subsection (b) and subject to any rules adopted by the attorney general under IC 4-22-2, a holder required to file a report under section 26 of this chapter for any property for which the holder has the last known address of the owner shall maintain a record of the information required to be in the report for at least ten (10) years after the property becomes reportable.

(b) A business association that sells in Indiana traveler's checks, money orders, or other similar written instruments, other than third party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in Indiana, shall maintain a record of outstanding instruments indicating the state and date of issue for at least three (3) years after the date the property is reportable.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-44**Interstate agreements; interstate enforcement and actions; document confidentiality**

Sec. 44. (a) The attorney general may enter into an agreement with other states to exchange information relating to unclaimed property or the possible existence of unclaimed property. The agreements may permit other states, or a person acting on behalf of a state, to examine records as authorized in section 42 of this chapter. The attorney general may, by rule, require the reporting of information needed to enable compliance with any agreements made under this section and prescribe the form.

(b) The attorney general may join with other states to seek enforcement of this chapter against a person who is or may be holding property reportable under this chapter.

(c) At the request of another state, the attorney general may commence an action on behalf of the administrator of the other state to enforce in Indiana the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in maintaining the action.

(d) The attorney general may request that the attorney general of another state or any other attorney commence an action in that state on behalf of the attorney general. The attorney general may retain another attorney to commence an action in Indiana on behalf of the attorney general. This state shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the attorney general's approval, the expenses and attorney's fees may be paid from money received under this chapter. The attorney general may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Expenses or attorney's fees paid

under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

(e) Any documents and working papers obtained or compiled by the attorney general or the attorney general's agents, employees, or designated representatives in the course of conducting an audit under section 42 of this chapter are confidential and are not public records except:

- (1) when used by the attorney general to maintain an action to collect unclaimed property or otherwise enforce this chapter;
- (2) when used in joint audits conducted with or under agreements with other states, the federal government, or other governmental entities; or
- (3) under subpoena or court order.

The documents and working papers may be disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subsection if the other state is bound to keep the documents and papers confidential.

(f) The attorney general's final completed audit reports are public records, available for inspection and copying under IC 5-14-3. A final report may not contain confidential documentation or working papers unless an exception under subsection (e) applies.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-45

Violations

Sec. 45. (a) Except as provided in subsection (b), a holder that fails to pay or deliver the property within the time required by this chapter shall pay to the attorney general interest for the time the holder is delinquent. Interest shall accrue under this subsection at the following rates:

- (1) The annual interest rate for a period of one (1) year or less after the time required by this chapter for payment or delivery of the property is:

(A) the one (1) year Treasury Bill rate published in the Wall Street Journal or its successor on the third Tuesday of the month in which the remittance was due; plus

(B) one (1) percentage point.

- (2) The interest rate for each year after the initial year to which subdivision (1) applies is:

(A) the one (1) year Treasury Bill rate published in the Wall Street Journal or its successor on the third Tuesday of the month immediately preceding the anniversary; plus

(B) one (1) percentage point.

As used in this subdivision, "anniversary" means the anniversary of the date on which the property was originally due to be paid or delivered under this chapter.

(b) The attorney general may waive the payment of interest described in subsection (a), in whole or part.

(c) A holder who fails to render any report or perform other duties required under this chapter shall pay a civil penalty of one hundred

dollars (\$100) for each day for the first fifteen (15) days that the report is withheld or the duty not performed. After the first fifteen (15) days, the holder shall pay a civil penalty of the greater of:

- (1) one hundred dollars (\$100) a day for each additional day, not to exceed five thousand dollars (\$5,000); or
- (2) ten percent (10%) of the value of the property at issue, not to exceed five thousand dollars (\$5,000).

Upon a showing by the holder of good cause sufficient in the discretion of the attorney general to excuse the failure, the attorney general may waive the penalty in whole or in part.

(d) A holder who knowingly or intentionally fails to pay or deliver property to the attorney general as required under this chapter shall pay an additional civil penalty equal to ten percent (10%) of the value of the property that must be paid or delivered under this chapter. If the attorney general believes it is in the best interest for the administration of this chapter, the attorney general may waive the penalty in whole or in part.

(e) A holder who willfully refuses, after written demand by the attorney general, to pay or deliver property to the attorney general as required under this chapter commits a Class B misdemeanor.

As added by P.L.2-2002, SEC.19. Amended by P.L.85-2005, SEC.2.

IC 32-34-1-46

Fee agreement to locate, deliver, or recover owner's property

Sec. 46. (a) This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or to contest the attorney general's denial of a claim. An agreement by an owner that:

- (1) has the primary purpose of paying compensation to locate, deliver, recover, or assist in the recovery of property presumed abandoned under this chapter; and
- (2) is entered into not earlier than the date the property was presumed abandoned and not later than twenty-four (24) months after the date the property is paid or delivered to the attorney general;

is void and unenforceable.

(b) An agreement by an owner that has the primary purpose of locating, delivering, recovering, or assisting in the recovery of property is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected, unless the amount collected is fifty dollars (\$50) or less;
- (2) the agreement is in writing;
- (3) the agreement is signed by the apparent owner;
- (4) the agreement clearly sets forth:
 - (A) the nature and value of the property; and
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted; and
- (5) the agreement contains the provision set forth in subsection (d).

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

(d) This subsection applies to a person who locates, delivers, recovers, or assists in the recovery of property reported under this chapter for a fee or compensation. An advertisement, a written communication, or an agreement concerning the location, delivery, recovery, or assistance in the recovery of property reported under this chapter must contain a provision stating that, by law, any contract provision requiring the payment of a fee for finding property held by the attorney general for less than twenty-four (24) months is void, and that fees are limited to not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less.

(e) Subsections (b)(4) and (d) do not apply to attorney's fees.

(f) If an agreement covered by this section:

(1) applies to mineral proceeds; and

(2) contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned;

the provision is void and unenforceable.

(g) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the attorney general on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-47

Cooperation of state and public agencies

Sec. 47. All officers, agencies, boards, bureaus, commissions, divisions, and departments of the state, including any body politic and corporate created by the state for public purposes, and every political subdivision of the state shall do the following:

(1) Cooperate with the attorney general upon the attorney general's request to further the purposes of this chapter.

(2) Make their records available to the attorney general for the purposes of discovering property that is presumed to be abandoned under this chapter.

(3) Compile from their records, upon the attorney general's request, reports that would aid the attorney general in identifying the holders of property presumed to be abandoned under this chapter and in discovering property that is presumed to be abandoned.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-48

Employment of independent consultants

Sec. 48. The attorney general may employ the services of any

independent consultants and other persons possessing specialized skills or knowledge that the attorney general considers necessary or appropriate for the administration of this chapter, including consultants in the following areas:

- (1) Upkeep.
- (2) Management.
- (3) Sale.
- (4) Conveyance of property.
- (5) Determination of any sources of unreported abandoned property.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-49

Duty to report, pay, or deliver property arising before July 1, 1996

Sec. 49. This chapter does not relieve a holder of a duty that arose before July 1, 1996, to report, pay, or deliver property. Except as provided in section 41(b) of this chapter, a holder that did not comply with the law in effect before July 1, 1996, is subject to the applicable enforcement and penalty provisions that existed and that are continued in effect for the purpose of this section.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-50

General purpose of uniformity among states

Sec. 50. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-51

Maintenance of action in court for enforcement

Sec. 51. The attorney general may maintain an action in a court of competent jurisdiction to enforce this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-52

Rules

Sec. 52. The attorney general may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

As added by P.L.2-2002, SEC.19.